

# DRIVING TOWARD SUCCESS: CRITICAL ISSUES IN MANAGING YOUR BUSINESS



2016 Employer Conference

August 9, 2016

Boar's Head Inn

<b>7:30</b>	<b>Registration</b> (Original Ballroom Foyer)
<b>7:45 - 8:15</b>	<b>Breakfast</b> (Hearth)
<b>8:15 - 9:00</b>	<b>Welcome</b> (Original Ballroom) Ellen Marie Hess, Commissioner, Virginia Employment Commission

## 9:00 - 10:15 Workshops - Session One

Original Ballroom	Albemarle	Blue Ridge	Commonwealth
<b>Employment Law Update</b> <p>This fast paced overview will survey the most important federal and state employment laws with an emphasis on recent developments. Those new to the field will gain valuable exposure to the laws that frame today's workplace, while more experienced managers and human resources professionals will gain cutting edge insight into recent trends and further movement within the field.</p> <p><b>Victor O. Cardwell, Principal</b>  <b>Thomas M. Winn III, Principal</b>  Woods Rogers PLC</p>	<b>Successfully Managing Your Unemployment Insurance Claims</b> <p>This session will provide employers with an overview of the process followed to adjudicate claims for unemployment insurance. These initial decision and appeal processes are utilized to render decisions when claims are contested.</p> <p><b>Kathy Weaver,</b>  <b>Acting Chief of Benefits</b>  Unemployment Insurance Services  Virginia Employment Commission</p>	<b>A Primer On Labor Market Information: Building Intelligence in a Data Driven World</b> <p>This workshop will give an overview of Labor Market Information (LMI) data, how that data can be used, and what resources are provided by the Virginia Employment Commission, such as LMI Tools, to quickly access labor market data; explore the <i>Occupational Profile</i>; and access the <i>Community Profile</i> publications.</p> <p><b>Timothy O. Kestner, Director</b>  Economic Information &amp; Analytics,  Virginia Employment Commission</p>	<b>The Americans With Disabilities Act: How to Avoid Being a Respondent at the EEOC and Defendant in the Local Courthouse</b> <p>This presentation will set out the essential elements of the ADA and familiarize the attendee with the terminology. Then we will move on to consider some hypotheticals that require judgment and decision making on reasonable accommodation versus undue hardship to the employer. Like a football referee, you make the call, and then we'll see if the decision will stand or be reversed.</p> <p><b>Randy C. Sparks Jr., Esquire</b>  Kaufman &amp; Canoles</p>

<b>10:15 - 10:30</b>	<b>Break</b> (Original Ballroom Foyer)
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## 10:30 - 11:45 Workshops - Session Two

Original Ballroom	Albemarle	Blue Ridge	Commonwealth
<b>Employer Handbook, Policies, and Manuals</b> <p>A well-written employee handbook is the cornerstone of the employer-employee relationship. This session covers important handbook topics from A to Z (or almost Z)—from Anti-Discrimination Policies, Background Checks, and Compensation, to Terminating Employees, Union Issues, and more.</p>  <p><b>Victor O. Cardwell, Principal</b>  <b>Thomas M. Winn III, Principal</b>  Woods Rogers PLC</p>	<b>Workers' Compensation: Issues That Impact Premiums</b> <p>The focus of the workshop will be on actions an employer can take to minimize workers' compensation costs. There will be introduction to coverage requirements, understanding insurance premium, avoidance of audit premium, and the cost savings of workplace efforts. The 2014 law change raising penalties for uninsured employers will also be discussed.</p> <p><b>Vivian Lane</b>  Claims Services Manager  <b>Suzanne Soule</b>, Insurance  Assistant Manager  Virginia Workers' Compensation  Commission</p>	<b>Worker Misclassification: Employee or Independent Contractor</b> <p>This workshop will help employers understand and avoid potentially costly errors with the status of workers in their workforce.</p>  <p><input type="checkbox"/> Employee  <input type="checkbox"/> Independent Contractor</p> <p><b>Geoff Garner, Special Examiner</b>  Virginia Employment Commission</p>	<b>The Fair Labor Standards Act</b> <p>This presentation will help employer representatives reach full compliance with the most important minimum wage and overtime provisions of the FLSA. We will also peer into the crystal ball to identify changes effectuated by executive order and Department of Labor interpretations. Employers get out your checkbook.</p> <p><b>Randy C. Sparks Jr., Esquire</b>  Kaufman &amp; Canoles</p>

**12:00 - 2:00**

**Lunch (Original Ballroom) Speaker: The Honorable Maurice Jones, Secretary of Commerce and Trade**

## 2:00 - 3:15 Workshops - Session Three

Original Ballroom	Albemarle	Blue Ridge	Commonwealth
<b>Recruiting, Retention, and Relationships</b> <p>Talent recruitment and management are key assets of an organization's growth plan. This session covers best practices and hiring steps to take from the applicant's interview, to the first day of work, and even the last. The session closes with best practices to help ensure a positive work experience overall for both employee and employer.</p> <p><b>Victor O. Cardwell, Principal</b>  <b>Thomas M. Winn III, Principal</b>  Woods Rogers PLC</p>	<b>Successfully Managing Your Unemployment Insurance Claims</b> <p>This session will provide employers with an overview of the process followed to adjudicate claims for unemployment insurance. These initial decision and appeal processes are utilized to render decisions when claims are contested.</p> <p><b>Kathy Weaver,</b>  <b>Acting Chief of Benefits</b>  Unemployment Insurance Services  Virginia Employment Commission</p>	<b>The VEC's Unemployment Insurance Automated Tax Systems</b> <p>This will be an overview of the new Unemployment insurance tax system highlighting key functions that employers need to know for reporting tax information.</p>  <p><b>Nancy Broadus, Chief of Tax</b>  Unemployment Insurance Services  Virginia Employment Commission</p>	<b>Social Media in the Workplace</b> <p>The presence of social media in the workplace is no longer new, but the volume and variety of communication is increasing and is problematic for employers. This session examines the prevalence and effects of workers using social media in and out of work, the developing limits on employer use, and how employers may properly make use of lawfully captured communications.</p> <p><b>Randy C. Sparks Jr., Esquire</b>  Kaufman &amp; Canoles</p>

**3:15**

**Closing**

## Speaker Biographies

(Listed in Alphabetical Order)

### **Nancy Broaddus, Chief of Tax, Virginia Employment Commission**

Nancy Broaddus became Chief of Tax in 2006. She has been employed at the Virginia Employment Commission since 1973 in progressively more responsible positions. She enjoys working on automation projects and has worked on many over the years. The most current project was the modernization of the tax portion of the VEC legacy systems. That system came into production in November 2015.

### **Victor O. Cardwell, Principal, Woods Rogers PLC**

Victor Cardwell is Chair of Woods Rogers' Labor and Employment Law Section. He practices labor and employment law throughout the U.S., focusing on diversity, the Fair Labor Standards Act, and labor/management relations—including union-organizing campaigns and union-avoidance techniques, and workplace violence.

Mr. Cardwell has significant experience before state and federal courts and administrative agencies, including the National Labor Relations Board. He offers counsel to executive and human resources managers on a wide range of employer concerns—from harassment, sexual orientation/transgender, retaliation, and discrimination, to workforce reductions, handbooks and agreements, unfair competition, wage/hour compliance, health and disability, discipline/discharge, and employee leave.

### **Geoff Garner, Special Investigator, Virginia Employment Commission**

Geoff Garner is a Special Investigator with the Targeted Audit and Investigative Enforcement Unit at the Virginia Employment Commission. He was educated at St. John's College (Annapolis) and St. Joseph's University (Phila.) and has a JD from Rutgers and a MA from the Naval War College. He was a Navy JAG for 20 years, and his assignments included the carrier USS THEODORE ROOSEVELT during Operation Enduring Freedom, TF-134 in Iraq, and teaching at the U.S. Naval Academy. After retiring from the Navy in 2011, Mr. Garner went to work for the Maryland Department of Labor, Licensing and Regulation as Program Administrator of its Worker Classification Protection Unit. He crossed the Potomac in April of 2016.

### **Ellen Marie Hess, Commissioner, Virginia Employment Commission**

Ellen Marie Hess was appointed the Commissioner for the VEC on January 12, 2015. She was previously appointed Deputy Commissioner at the Virginia Department of Motor Vehicles (DMV) by Governor McAuliffe in January 2008. There she oversaw the agency's legislative, legal, and policy functions, as well as the Highway Safety Office. She has more than 20 years' experience in policy and regulatory functions in state government.

Prior to her service at DMV, she was the Director of Labor and Employment Law at the Virginia Department of Labor and Industry and a Staff Attorney with the Virginia Department of Taxation. She also gained private sector experience as In-house Counsel at Heilig-Meyers Furniture Company. Mrs. Hess received a bachelor's degree with honors from Virginia Commonwealth University and a juris doctor from the University of Richmond.

### **The Honorable Maurice Jones, Secretary of Commerce and Trade, Office of the Governor**

Maurice Jones was appointed Secretary of Commerce and Trade by Governor Terry McAuliffe in January 2014. Previously, Jones served as Deputy Secretary for the U.S. Department of Housing and Urban Development from April 2012 through January 2014. As the second most senior official at HUD, Jones managed the department's day-to-day operations, the annual operating budget, and the agency's 8,900 employees.

Prior to HUD, Jones was President of Pilot Media, the largest print and digital organization in Hampton Roads, Virginia. A Kenbridge, Virginia, native, Jones also served as Commissioner of the Virginia Department of Social Services and Deputy Chief of Staff to then-Virginia Governor Mark Warner. At the U.S. Treasury Department, Jones was Special Assistant to the General Counsel and he also served as Legal Counsel to the Community Development Financial Institutions (CDFI) Fund and as Director of the Fund during the Clinton Administration. Jones worked for the law firm of Hunton & Williams in Richmond, Virginia and he was a Partner at Venture Philanthropy Partners, a firm that invests millions in the Washington, DC metropolitan area to assist low-income children.

### **Timothy O. Kestner, Director, Economic Information & Analytics (EIA), Virginia Employment Commission**

Tim Kestner, Director of the EIA Division, manages the daily operations of Virginia's official source of labor market information. He is also responsible for developing and distributing new and innovative LMI products.

Prior to his current position, Mr. Kestner was a senior research economist in the division for twenty four years. He was responsible for tracking and reporting on Virginia's economy as it related to the workforce, along with developing economic impact assessments of existing and declining industries. Mr. Kestner continues to serve as a senior staff member to the Virginia Board of Workforce Development. As editor of the Economic Indicators, a VEC/EIA publication, he writes a quarterly abstract on the state and national economies that appears in the publication.

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Mr. Kestner has authored numerous articles and routinely participates in the public discussion regarding industrial changes in Virginia. He has tracked and reported on the Defense Base Closure and Realignment Commission (BRAC) for more than a decade. He has developed close relationships with the Commonwealth's universities, and serves as a consultant to local planning boards and county administrators.

**Vivian Lane, Claims Services Manager, Virginia Workers' Compensation Commission**

Vivian Lane currently serves as the Manager of the Claims Services Department. Prior to that she has held over 12 administrative positions in her 28 year career with the Virginia Workers' Compensation Commission. In 2012 Ms. Lane served as the agency's Executive Director in an interim capacity during a brief change in leadership and is a member of the Southern Association of Workers' Compensation Administrators (SAWCA).

**Suzanne Soule, Insurance Assistant Manager, Virginia Workers' Compensation Commission**

Suzanne Soule has been employed with the Virginia Workers' Compensation Commission for over 16 years. Before joining the Commission, she was a paralegal for a general practice law firm in Richmond, Virginia.

**Randy Sparks, Esquire, Kaufman & Canoles, PLC**

Randy Sparks is a member of the Labor and Employment Law Practice Group at Kaufman & Canoles. He concentrates his practice in employment litigation, representing employers in employment discrimination, sexual harassment, breach of employment contract, non-compete, and wage and hour claims before various state and federal courts and administrative agencies. Mr. Sparks also advises and trains clients on lawful employment practices and other workplace issues.

**William O. Walton, Unemployment Insurance (UI) Director, Virginia Employment Commission**

Bill Walton, UI Director, has been employed by the VEC since 1992. As the UI Director, Mr. Walton is responsible for the administration of the UI benefit and tax programs in accordance with the Unemployment Compensation Act. Prior to being named UI Director, he was the Acting Chief of Benefits for the VEC. The Chief of Benefits implements policy and procedures to ensure the proper processing of unemployment insurance claims to include extended benefits.

Mr. Walton has also served as a Workforce Services Manager. The responsibilities of that position included oversight of a large office and the services and programs administered through that workforce center. This was accomplished in accordance with the provisions of the Unemployment Compensation Act, Wagner-Peyser Act, and the Trade Act. Prior to becoming an Office Manager, he had experience working as a Supervisor, Hearing Officer, and Workforce Services Representative.

**Kathy Weaver, Acting Chief of Benefits, Virginia Employment Commission**

Kathy Weaver has been with the Virginia Employment Commission since 1975 and has held numerous positions within the Unemployment Insurance Division. She currently serves as the Acting Chief of Benefits where she is responsible for implementing policy and procedures to ensure the proper processing of all unemployment insurance claims.

Prior to this position Ms. Weaver served as an Adjudication Center Supervisor managing a team of Adjudicators rendering initial entitlement decisions on separation and non-separation issues related to unemployment claims. Ms. Weaver served more than 16 years as an Adjudicator conducting fact finding interviews and making decisions on claim eligibility. She also served many years as a Quality Control Analyst reviewing all aspects of unemployment insurance claims for accuracy and completing reporting requirements for management and Department of Labor.

**Thomas M. Winn III, Principal, Woods Rogers PLC**

Tom Winn is a Principal in the Labor and Employment Group at Woods Rogers. Best Lawyers in America named Mr. Winn as the 2016 Roanoke Lawyer of the Year for Labor Law-Management. Mr. Winn advises management on HR issues ranging from discipline/discharge, workforce reductions, handbooks and agreements, harassment, discrimination and retaliation, wage/hour compliance, health and disability, employee leave and benefits, and unfair competition. Mr. Winn regularly represents employers regarding these issues before state and federal courts and administrative agencies, including the EEOC, DOL, and OFCCP. He has served as "first chair" counsel at both trial and appellate levels.

Mr. Winn also counsels and represents employers in union organizing and decertification campaigns, collective bargaining, grievances/arbitrations, NLRB litigation, strike management, and other issues under collective bargaining agreements. Mr. Winn has extensive experience representing government contractors with regard to collective bargaining and Service Contract Act issues. He has served as chief spokesman in union negotiations, and he has handled more than 100 labor arbitration cases.